

U.S. Fish & Wildlife Service

NEPA

Guidance to States Participating in The Federal Aid Program



Acknowledgments

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Photo front cover:

Construction of a boardwalk at the Aquatic Resource Education Center, Smyrna, DE
Lacy Nichols, Jr./Delaware Division of Fish and Wildlife

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Introduction

The Federal Aid in Sport Fish and Wildlife Restoration (Federal Aid) grant program is a partnership between the U. S. Fish and Wildlife Service and State natural resource agencies. The program is funded primarily by excise taxes on firearms, ammunition, archery equipment, fishing tackle, and motorboat fuels. State agencies submit proposals for projects that address the fish and wildlife management priorities and needs of their particular State. The U.S. Fish and Wildlife Service Division of Federal Aid works with the State agency to ensure that projects conform with regulations for various grant programs and environmental legislation such as the National Environmental Policy Act of 1969 (NEPA).

This supplement to the Federal Aid Handbook (521–523 FW) is designed for use by both State personnel and Federal Aid staff. Approval of a Federal Aid project constitutes a Federal action that requires compliance with pertinent Federal laws and regulations. To comply with NEPA, every proposed Federal Aid project must be reviewed prior to approval to determine the effects of the proposed work upon the environment. While States are encouraged to assist in the NEPA process, Federal Aid cannot delegate its NEPA decision-making responsibilities to State fish and wildlife agencies.

The States have an important role to describe the purpose and need for the proposed action, the alternatives to be considered, and the potential environmental consequences. States are also able to identify and notify interested publics and affected agencies for early public involvement. Therefore, although the Fish and Wildlife Service is ultimately responsible for NEPA compliance, the States work in close coordination with Federal Aid to ensure that NEPA procedural and information needs are met.

Purpose and Scope

Two important objectives of the National Environmental Policy Act, as stated in the preamble, are:

- To carefully consider detailed information concerning every significant environmental impact on the human environment, which is defined as the natural and physical environment and the relationship of people to the environment.
- To ensure the public plays a role in both the decision-making process and the implementation of that decision.

These objectives require that all proposed Federal actions be critically examined with public input to determine the effects such actions will have upon the environment. The NEPA process provides a mechanism to identify and assess reasonable and prudent alternatives to a proposed action, the impacts of such alternatives, and appropriate mitigation measures. NEPA procedures also ensure that essential environmental information is available to public officials and citizens.

The President's Council on Environmental Quality (CEQ) updated regulations implementing NEPA in 1987. These regulations clarified NEPA's purposes and specified basic governmental procedures for implementation. The CEQ Regulations are found in the Code of Federal Regulations, at 40 CFR Parts 1500-1508. NEPA procedures were subsequently issued by the Department of the Interior (516 DM 1-7), followed by NEPA guidance prepared by the U.S. Fish and Wildlife Service (550 FW 1-3) to further supplement and clarify the above-mentioned information. The Service NEPA guidance addresses NEPA implementation for Federal Aid and the rest of its programs. This supplement is consistent with these regulations and procedures.

The NEPA process should serve as a focal point to facilitate compliance with other environmental statutes. To the extent practical, all environmental requirements should be processed concurrently with NEPA. In this way, environmental information developed by planning processes for the Executive Orders on Floodplains and Wetlands, Section 7 of the Endangered Species Act, the National Historic Preservation Act and other requirements can be disclosed to the public and fully incorporated in the overall decision-making process. Simultaneous processing of environmental requirements will allow early and mid course corrections in the decision-making process thus avoiding delays and increased administrative costs.

The purpose of this supplement is to assist the user in (1) determining the appropriate type of NEPA process to employ and (2) preparation of the associated documentation. This supplement focuses primarily on processes and documentation involving categorical exclusions (CX) and environmental assessments (EA). Regional Environmental Coordinators, [agency guidance on internal NEPA procedures](#), and the CEQ regulations implementing NEPA

“The National Environmental Policy Act (NEPA) is our basic national charter for protection of the environment. The Act ensures that environmental information is available to public officials and citizens before decisions are made and before actions are taken.”

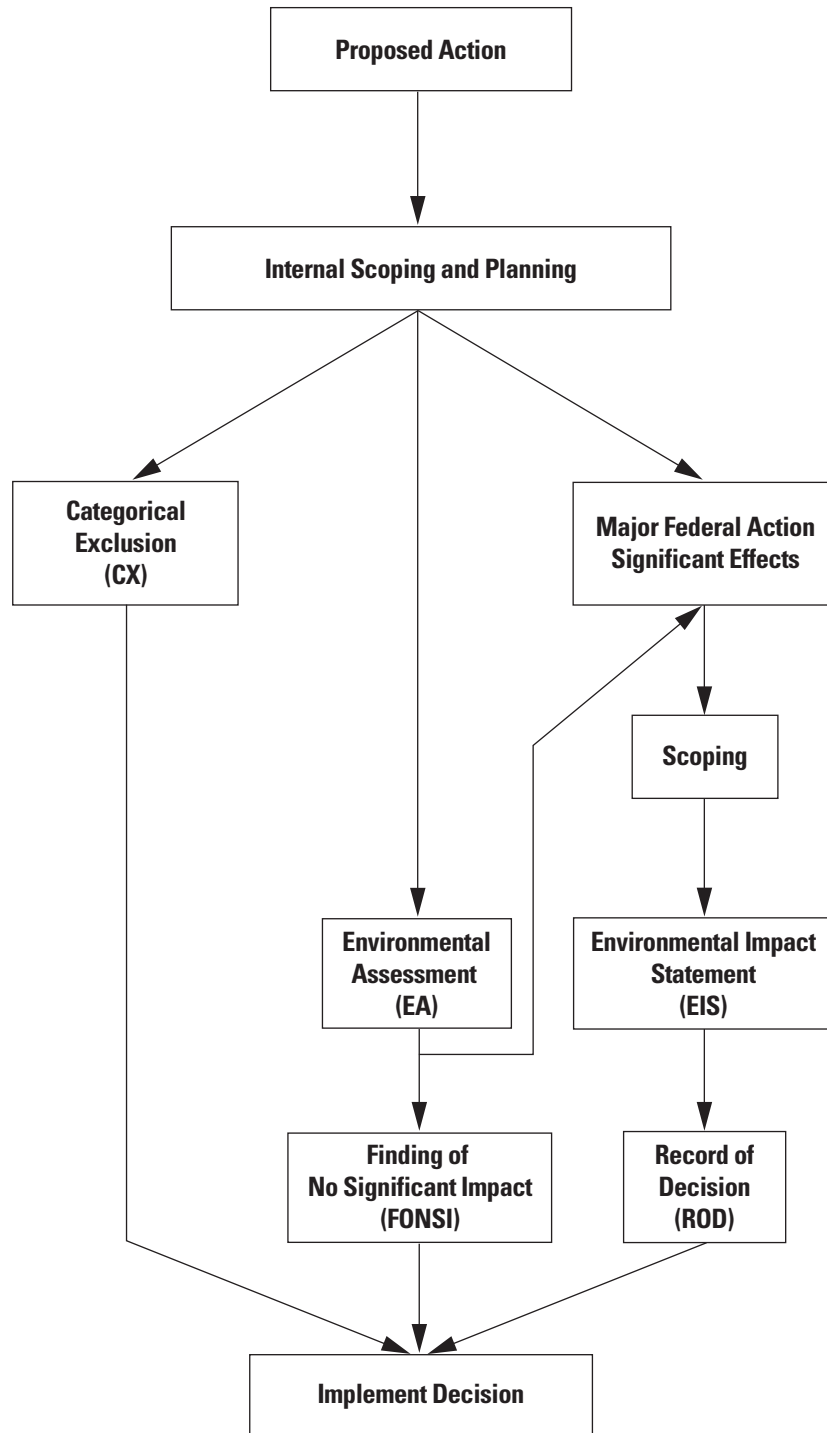
—from Part 1500 of the Code of Federal Regulations

should be consulted if preparation of an environmental impact statement (EIS) is required. The Regional Environmental Coordinator, located in each Service Regional Office, is available to provide assistance to the States and Federal Aid staff regarding all NEPA compliance matters. States may acquire assistance from their respective Regional Environmental Coordinator through a Federal Aid staff specialist.

This supplemental guidance is suggested to aid compliance with the Department/Service procedures/guidance and CEQ regulations. It does not in any way replace or supercede the Departmental/ Service procedures/guidance or CEQ regulations. If any issues arise in the interpretation of this supplemental guidance, Departmental/Service procedures/guidance and CEQ regulations, as appropriate, have precedence.

Overview of the NEPA Process and Documentation

NEPA Process



Overview of the NEPA Process and Documentation

The decision by Federal Aid to fund or approve a grant proposal is considered a Federal action. If the action will have no significant effect on the environment and is covered by a categorical exclusion, further analysis under NEPA is not required and the action is implemented. Alternatively, if the action is not covered by a categorical exclusion, or if the impacts of the action are uncertain, an EA is required to establish whether or not to prepare an EIS. Finally, if the action will have a significant impact on the environment, an EIS is required.

Categorical exclusions are classes of actions which **do not** individually or cumulatively have a significant effect on the quality of the human environment. Therefore, they **do not** normally require the preparation of an EA or EIS. Department of the Interior actions, including those of the Fish and Wildlife Service, that are designated as categorical exclusions are identified in Appendices A and B, respectively. It is critical to note that the categorical exclusions have qualifying criteria which limit their use. In addition, exceptions to categorical exclusions are certain factors that cause an action which is otherwise categorically excluded to require the preparation of an EA or EIS. Exceptions to categorical exclusions are identified in Appendix C. The decision that an activity is a categorical exclusion can be documented with a NEPA compliance checklist, Appendix G, or an Environmental Action Statement (EAS), Appendix D.

If an action is not categorically excluded, an EA must be prepared to discuss alternative actions considered to meet the identified needs of the grant, and to examine the effects of alternative actions with sufficient evidence and analysis to determine whether to prepare an EIS. A decision not to prepare an EIS is documented with a Finding of No Significant Impact (FONSI) as in Appendix E.

An EIS is a detailed, written statement prepared for major Federal actions significantly affecting the quality of the human environment. While an EA and EIS follow the same format, the EIS is much more rigorous in content and analysis of impacts, and more strictly bound by public review procedures. The decision resulting from preparing an EIS is documented in a Record of Decision (ROD).

Project Planning, Public Involvement and NEPA

Development of the grant proposal is an early planning activity that precedes initiation of the NEPA process. Before a determination can be made whether an action: (1) is categorically excluded, (2) requires the preparation of an EIS, or (3) requires an EA, the grant proposal or proposed action must be developed. The proposed action is described in the project statement of the grant. The project statement identifies specific actions to be taken and decisions to be made. The actions should be quantified (e.g., location and size of facilities to be built; acres to be harvested; location, species and number of fish to be stocked; etc.) to the extent possible. When developed, the grant proposal or specific activities therein will serve as the proposed action for consideration in the NEPA process.

Traditional Grants

NEPA documents prepared by the State (checklists, EA) should precede or accompany, a grant proposal when it is formally submitted to Federal Aid for approval. A sufficient amount of lead time prior to the requested grant start-up date should be provided to allow for a NEPA determination by Federal Aid, and if required, public review and completion of the NEPA documentation process. When an existing Federal Aid grant is renewed, the existing NEPA document should be reviewed to ensure that it adequately covers the work to be undertaken in the renewed grant. The appropriate NEPA documents or an administrative record should be prepared to confirm this review. New work added to an existing grant should be handled similarly. The existing NEPA documentation should be supplemented if the work is not adequately covered.

Grant agreements cannot be approved until all NEPA compliance activities have been completed. However, there may be instances, such as with consolidated grants or a comprehensive statewide development project, when sufficient information or detail may not be available with the grant proposal (e.g., site locations, or site-specific impacts) to make a NEPA determination. In such cases, NEPA documentation for specific, individually identified activities may be deferred to subsequent grant agreements within the grant period, when suitable information is available to complete NEPA compliance requirements.

Program Funding Option Grants

States receiving apportioned funds under the Program Funding Option (PFO) instead of traditional grants must also provide for NEPA compliance. Under the PFO, the obligation and expenditure of Federal Aid funds is supported by a system for planning, programming, budgeting, implementing, and evaluating work—a comprehensive management system. The comprehensive management system must include steps to evaluate the environmental impacts of proposed projects, and provide Federal Aid with recommendations for a NEPA decision. NEPA compliance for PFO grants is usually addressed in conjunction with preparation of documentation for the annual grant agreement, similar to traditional grants. This is due to the large number of State projects normally included in a PFO grant, and the fact that many State projects under these grants are implemented or completed each year.

Prepare NEPA Documents When:

1. a Federal Aid grant is planned,
 2. a Federal Aid grant is renewed or amended, changing the scope of activities, or
 3. sufficient detail has become available to make a NEPA determination.
-

Public Involvement

NEPA requires that environmental information be made available to the affected and interested public before decisions are made and actions initiated. The public (officials and citizens) can include persons who (1) will be affected, (2) think they will be affected, or (3) need to be or want to be involved in the proposed action. The extent of public involvement in the NEPA process depends upon the nature of the proposed action and character of public interest (national, regional, or local). Guidelines for determining the extent of public involvement are summarized in Appendix F. Records should be maintained documenting all public involvement.

Scoping Process:

1. Identify the affected public
 2. Provide advance notice of meeting
 3. Provide information: objectives; proposed action; purpose and need for action; preliminary alternatives and impacts
 4. Scoping meeting: learn about public concerns; record comments; allow adequate time for involvement; maintain a public record
-

Scoping is an important means of acquiring early public involvement in the preparation of an EIS or EA. Early participation by other agencies and the affected public may generate useful information in situations where an EA is being prepared. The objectives of scoping are to identify significant issues and to translate these into the purpose and need for the action, the action(s) to be taken, alternatives to be considered, and impacts to be addressed. Scoping streamlines and focuses the analysis and decision-making process by ensuring that all important issues are identified and addressed, and unimportant issues in the NEPA process are eliminated from analysis. In essence, scoping is used to design the EIS or EA. Effective scoping should reduce paperwork, delays, and costs and improve the effectiveness of the NEPA process.

Scoping can be informal, occurring initially among staff within the natural resource agency; or it may be formal, involving members of the affected public. Public scoping is encouraged for development of an EA because it helps satisfy NEPA's underlying objective for public involvement. Public participation in scoping can be initiated through a number of techniques, such as notices in local newspapers, direct mailings, *Federal Register* notices, etc.

The State coordinates the scoping process for an EA. The State agency should carefully identify the affected public and provide reasonable advance notice of public meetings and comment due dates to facilitate effective public participation. Preliminary scoping information should be provided prior to and at the scoping meeting to solicit meaningful public participation. The scoping information should state the objectives of scoping, the proposed action, the purpose and need for the action, and list preliminary alternatives and impacts. The State agency should strive to understand the public concerns, accurately record their comments, and allow adequate time for involvement by the affected public. The State will maintain a record of public meetings and other public participation in the grant files. The results of scoping should be made available to the affected public.

A formal scoping process is required for an EIS. Therefore, Federal Aid should administer the scoping process to ensure strict compliance with the pertinent CEQ requirements. A report of the scoping process and results should be included in either the EIS or EA.

Steps to Apply the NEPA Process

STEP 1: Categorical Exclusion (CX), page 23

Categorical Exclusion Determination

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Exceptions to CX

NEPA Checklist

Action Not Covered by CX

Action Covered by CX

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STEP 2: Environmental Assessment (EA) Required, page 24

Preparation of an Environmental Assessment

Purposes of EA

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Public Notice of EA

Public Review of EA

Final EA

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Action Has Significant Impacts

Finding of No Significant Impacts (FONSI)

Public Notice of FONSI

FONSI Review Period

Implementation

Mitigation

Step 3: Environmental Impact Statement (EIS), page 26

Applying the NEPA Process

State agency personnel thoroughly review their grants to determine if categorical exclusions apply (Appendix A or B) to the proposed grant activities, in terms of the nature and scale of the activity. The qualifying criteria of the categorical exclusion, e.g., "...which result in no or only minor changes in the use...", selected must be met. If not, an EA must be prepared. **GO TO STEP 2.**

Grant Review

STEP 1: Categorical Exclusion (CX)

Categorical Exclusion Determination

Circumstances may exist in which normally categorically excluded actions may result in adverse effects on the environment. These circumstances are termed "exceptions" to categorical exclusions and require the preparation of an EA. Exceptions to categorical exclusions are found in Appendix C.

Exceptions to CX

A NEPA Checklist (Appendix G) has been developed, which incorporates the exceptions to categorical exclusions. If a proposed action is believed to fit one or more categorical exclusions, then the NEPA Checklist is completed by the State for the proposed action. If the action is not covered by a categorical exclusion, an EA must be prepared. **GO TO STEP 2.**

NEPA Checklist

If any of the exceptions on the NEPA Checklist receive a "Yes" check, an EA is needed. **GO TO STEP 2.**

Action Not Covered by CX

If one or more categorical exclusions pertain, and no exceptions to categorical exclusions apply (all "No" checks on NEPA Checklist), then the NEPA Checklist is signed by the appropriate State personnel and forwarded, along with the grant documents, to the Regional Federal Aid office for staff evaluation and concurrence.

Action Covered by CX

For PFO grants, State personnel should use the NEPA Checklist to evaluate the environmental impacts of proposed projects, and provide Federal Aid with recommendations on which categorical exclusion fits each State project. Basic documentation (Appendix H) should be attached to the Checklist confirming how the individual projects meet the categorical exclusion(s).

Program Funding Option (PFO) Grants

The appropriate Regional Office Federal Aid staff specialist reviews the State agency's proposed categorical exclusion(s). If the staff specialist concurs with the state's recommendation, Federal Aid documents the categorical exclusion determination with the NEPA Checklist or an EAS for the administrative record. NEPA compliance is complete; and provided other compliance requirements have been met, the action can be implemented immediately.

STEP 2: Environmental Assessment (EA) Required

*Preparation of an
Environmental
Assessment*

Purposes of EA

The primary purposes of the EA are to determine whether an activity will have significant impacts and to address unresolved environmental issues. An EA is prepared if the activity is not categorically excluded or the impacts of the activity are uncertain. Completion of an EA assists in making the determination to prepare an EIS and facilitates preparation of one when necessary. An EA also aids agency compliance with NEPA when no EIS is necessary. An EA may also be prepared if it is determined that it would: (1) aid in planning or decision-making, (2) serve as a vehicle to gain public input or facilitate interagency coordination, (3) simplify permit approval, or (4) expedite other necessary legal clearances.

Draft EA

The State agency should prepare the EA in close coordination with Federal Aid. The EA must be prepared in accordance with Department of the Interior NEPA procedures and Fish and Wildlife Service NEPA guidelines. Draft EAs should be submitted to Federal Aid to ensure appropriate content and level of detail. Federal Aid will coordinate preparation of the EA with the Service Regional Environmental Coordinator, as appropriate.

Public Notice of EA

Public notification is required to allow the affected public to be involved in the EA process. After the draft EA is reviewed by Federal Aid for compliance with Department and Service NEPA procedures and guidelines, it should be made available by appropriate notice or be distributed to the affected public. Notification of the availability of an EA must be provided to those who have requested it on an individual action.

No specific time period is required for public review of the EA. The length of the public review period is determined by Federal Aid and should normally be the same as the public review period required for any accompanying planning or decision-making process. In general, a 30-day review period should be adequate for most EAs. If there has been ample opportunity for public involvement through other means, the length of the review period can be reduced.

Public Review of EA

A final EA that addresses the comments of the public, and other Federal, State and local agencies should be prepared. In cases where an EA is expected to generate few if any comments, a single EA can be made available to the affected public.

Final EA

Following public review of the EA, the EA and public comments should be forwarded to Federal Aid to ensure that the comments are adequately addressed and to determine whether or not an EIS needs to be prepared. A decision that the activity has significant impacts necessitates the preparation of an EIS. The finding must be based on the information presented in the EA and any associated documentation referenced by the EA. Appendix I provides information to assist in the determination of whether an EIS is required.

Federal Aid Review

Decision and Implementation

If an EIS is required, a Notice of Intent (NOI) to prepare an EIS is published by the Service in the *Federal Register*. **GO TO STEP 3.**

Action Has Significant Impacts

If the proposed project will not significantly affect the quality of the human environment, a Finding of No Significant Impact (FONSI) is prepared and signed by the Service.

Finding of No Significant Impact (FONSI)

The FONSI must be made available to the affected public to inform them of the decision. A combination of methods may be used to provide notice, tailored to the needs of the particular case. Local mailings, publication in newspapers, or radio announcements are appropriate means of informing the affected public. For proposed actions with effects that are primarily of local concern, the State's public notice procedures for comparable actions may be used.

Public Notice of FONSI

**FONSI
Review
Period**

In certain circumstances, Federal Aid must make the FONSI available for public review for 30 days prior to implementation of the decision. This should be done if the proposed action:

- is a borderline case (i.e., there is a reasonable argument for preparation of an EIS).
- is an unusual case, a new kind of action, or a precedent-setting case.
- elicits either scientific or public controversy.

Implementation

The action may be initiated immediately following completion of public notification or review, as appropriate to the situation. The State agency and Federal Aid must substantially comply with the decision made in the FONSI. Minor details encompassed by the proposed action may be modified. For example, a boundary fence incorporated in a proposal to construct a public access facility could be eliminated without affecting the determination.

Mitigation

Mitigation measures included in the proposed action to preclude significant effects are enforceable. If mitigation measures are not implemented, an EIS or reevaluation of the proposal is required.

STEP 3: Environmental Impact Statement (EIS)

While some Federal Aid projects may require EISs, they are relatively rare. In some situations, it may be evident that the proposal is a major Federal action which will significantly affect the quality of the human environment. These cases require an EIS.

Determinations of major Federal actions and significant effects on the human environment are subject to variable interpretation, and no hard-and-fast rules are available to label an action conclusively one way or the other. The CEQ has defined major Federal actions, and thresholds for “significantly,” both in terms of context and intensity. Finally, the courts have also established legal precedents which serve to interpret the concepts of major and significant.

The purpose of this document is to assist the user through the NEPA process up to the point of developing an EIS. Consult with the Regional Environmental Coordinators, agency guidance on internal NEPA procedures, and the CEQ Regulations implementing NEPA when preparation of an EIS is required.

NEPA Documents

List of Documents and Appendices Where Found

Document	Prepared By	Appendix
Environmental Action Statement (EAS)	Federal Aid	D
NEPA Compliance Checklist	State Agency	G
Environmental Assessment (EA)	State Agency	N/A
NEPA Documentation for PFO Grants	State Agency	H
Public Notice for EA	State Agency	J
Finding of No Significant Impact (FONSI)	Federal Aid	E
Public Notice for FONSI	Federal Aid	K

NEPA compliance is necessary for every grant proposed for Federal Aid funding. NEPA documents such as Checklists, EAs, or EISs should precede or accompany the grant documents for new projects, renewals, or amendments submitted for formal approval. The grant agreement cannot be approved nor can the proposed action be undertaken until the NEPA process has been completed. The type of documentation required will depend on the nature of the proposed action, environmental impact expected, and the nature and extent of public controversy generated by the grant proposal. This section discusses the contents of NEPA documents and is organized in the order in which these documents are likely to be encountered.

Environmental Action Statement

The EAS establishes a process for internal review of Service NEPA decision documents within the Regional Office to ensure inter-program coordination. It also provides an appropriate administrative record of the NEPA decision.

The EAS is a one-page document summarizing the proposal, the Service decision, references to supporting documents (if any), and a signature block (Appendix D). The EAS should accompany the decision documents for the action and be signed after the NEPA determination has been made. The signature approval blocks may be modified to accommodate Regional Office protocol.

The EAS is part of the Service's NEPA administrative record for a grant and should be maintained in the respective Federal Aid grant file. Although it is not normally distributed to the public, the EAS may be provided whenever requested, in the same manner as other NEPA documents.

NEPA Compliance Checklist

The NEPA Compliance Checklist (Appendix G) provides a process for making and documenting a NEPA determination. A NEPA Compliance Checklist is completed by the State. Use of the Checklist is required in certain situations. Refer to Director's Order No: 127 for details.

Generally one Checklist is completed and submitted to Federal Aid with each Application for Federal Assistance (AFA). If the Project Statement does not provide sufficient detail to make a determination at the AFA level for some activities, the checklist is completed prior to approval of the grant agreement that includes the necessary

Prepare an EAS When:

1. a grant is categorically excluded,
 2. a FONSI is signed,
 3. emergency NEPA actions need to be implemented,
 4. after the review of an EA, a decision is made to prepare an EIS, or
 5. additional internal review and documentation of the NEPA administrative record is desirable.
-

Complete a Checklist When:

1. a new grant is proposed,
 2. new work is proposed for an existing grant,
 3. an existing grant is continued for another 3 – 5 years,
 4. sufficient detail has become available to make a determination, or
 5. required by Director's Order No: 127.
-

information. First, appropriate categorical exclusions are identified for each work activity within the Project Statement. Then, each activity is compared with the Checklist items to determine whether it represents an exception to a categorical exclusion. As discussed previously, a “Yes” determination on any Checklist item requires the preparation of an EA. Documentation supporting the determinations may be attached to the Checklist if necessary.

The NEPA Compliance Checklist also serves as a portion of the administrative record by providing a means of documenting NEPA compliance. It may be substituted for the EAS. The Checklist should be signed by the person that completed the document, usually the Project Leader, and an individual within the State that has signature authority for grant documents (State Authority Concurrence). The appropriate Federal Aid staff specialist documents the determination on the Checklist, notes any exceptions such as activities that may not be categorically excluded, and signs and dates in the signature block.

Environmental Assessment

An EA is a brief, but complete, document which includes the information necessary to make a determination of whether or not an EIS will be required. The EA is usually prepared by the state agency. While there is no maximum page limit, 10 – 15 pages is generally recognized as the average upper limit, excluding appendices. An EA should discuss the purpose and need for the proposal, alternatives, the affected environment, environmental impacts of the proposed action and alternatives, and a listing of agencies and persons consulted. The content of each section is discussed below.

Basic EA Outline

- i. Purpose and Need for Action
 - ii. Summary of Public Scoping
 - iii. Alternatives
 - iv. Affected Environment
 - v. Environmental Consequences
 - vi. List of Preparers
-

Purpose and Need for Action

Describe what the grant is intended to accomplish from a resource perspective. For example, a purpose could be “to provide improved public fishing access to a particular river.” The purpose should be goal oriented, not a statement of a specific project action. The goals and objectives included in grant documents may help define the project purpose. The need is the problem or opportunity compelling the agency to take action, e.g., the need to increase safety at a public access facility. Briefly describe the problem to be corrected or identify what is required or useful to fulfill the opportunity. A good, narrowly focused statement of need will help to define the range of reasonable alternatives that will accomplish the purpose.

The following information is also useful, as appropriate:

- | | |
|------------------|--|
| Background: | Discuss what has been done to date to address the identified problem. |
| Vicinity map: | Provide a map of the project area at a scale appropriate to the scope of the project. |
| Laws/Directives: | Mention any laws, mandates, directives which are relevant. |
| Concerns/Issues: | Identify major issues associated with the project. Is there public controversy? Note any special restrictions or special considerations. |

Summary of Public Scoping

Public scoping is not required for the preparation of an EA, but it is encouraged. Summarize the results of scoping in the EA, and attach a detailed report of scoping as an appendix to the EA. Identify all the issues raised. For those issues which will obviously not result in significant impacts or are outside the scope of the project, the EA should identify them and explain why they will not be analyzed in detail. Those actions and/or alternatives which have the potential to result in significant impacts must be analyzed in detail in the EA.

This section should identify all publics that have been contacted and given the opportunity for input.

- List all public notices, providing date, name of publication, and page(s).
- List any public meetings (time and place) which were held and summarize the outcome of such meetings.
- List any persons, offices, bureaus, organizations, or agencies who were contacted during the preparation of the EA (either to collect or corroborate information).

Alternatives

Alternatives are the heart of the EA because they define the issues and provide a clear basis of choice by the decision-maker and the public. Include an alternative comprising the proposed action, a no action alternative, and other reasonable alternatives that satisfy the purpose and need, to the extent practicable. Alternatives that are feasible and prudent from a technical and economic standpoint should be identified. They should be given equal treatment as far as scope is concerned so they can provide clear choices for the decision-maker. Alternatives should be developed in consideration of scoping comments.

Alternatives which were considered, but determined to be infeasible, i.e., dismissed from further analysis, should be identified with an explanation as to why they are considered infeasible. Typically, alternatives are found to be infeasible due to economic, technological, or legal considerations, or they will not satisfy the purpose and need for which the EA is being prepared.

A reasonable range of alternatives should be addressed. One of them will always be the “no action” alternative, and one will be the proposed action. However, more than just these two should be available to the decision-maker. Sometimes it may seem that there are simply no reasonable alternatives to the proposed action. This could mean that the project has progressed beyond where NEPA is useful as a planning tool. A review of past actions, opportunities, etc., that led to the current proposed alternative, will often reveal that meaningful alternatives had in fact been considered earlier in the process. These may be summarized and included as alternatives for consideration, or alternatives dismissed.

Identify selection standards, if appropriate, for the alternatives. These could be any major factor influencing the agency's decision, including agency goals, purpose, need, environmental consequences, technical feasibility, monetary constraints, or project benefits. If selection standards are identified, they should be applied consistently and objectively to all alternatives.

Each alternative, including the proposed action, should include a complete description of what specific actions will be taken, and how the work will be accomplished. Quantify the actions to the extent possible (e.g., usage levels, facilities developed, miles of roads, management prescriptions, etc.). Mitigation, as appropriate, should be included in each alternative, except the no action alternative. Avoid describing alternatives on the basis of strategies, goals, or objectives. Alternatives should not address impacts. Impacts are covered in the Environmental Consequences section of the EA. Alternatives should address actions proposed to be taken.

If there are several alternatives to be considered, insert a brief, concise table that summarizes the actions by alternative at the end of this section. The table allows the decision-maker and the affected public to compare changes in the level of actions between alternatives with the no action alternative. These differences can then be analyzed in the subsequent Environmental Consequences section of the EA.

Affected Environment

Provide a clear description of present conditions in the area to be affected by the proposed action and the alternatives. The affected environment establishes a baseline of current environmental conditions for describing the impact of alternatives, including the proposed action. Limit the description of biological, physical, social, and economic conditions to those pertinent to the actions addressed in the alternatives and to the impacts addressed in the environmental consequences chapter. This section should not be a detailed description of "the environment at large." The EA need only supply as much information as is necessary for the decision-maker to understand the discussion in the "Environmental Consequences" section. Particular mention should be made of the presence (or absence) of any endangered or threatened species or their critical habitat, historic or cultural resources, parklands, prime or unique farmlands, wetlands, 100-year floodplains, wild and scenic rivers, or other ecologically critical areas (e.g., wilderness areas, research natural areas, etc.).

Environmental Consequences

Develop the analysis for this section by identifying impact topics for each alternative, including the no action alternative. Typically only a few impact topics (effects) from the following list will be relevant:

- | | |
|--------------------|--------------------|
| ■ Access | ■ Aesthetics |
| ■ Air Quality | ■ Animal Welfare |
| ■ Biodiversity | ■ Coastal Zone |
| ■ Coastal Wetlands | ■ Coastal Barriers |

- Cultural and Historic Resources
- Energy/Mineral Resources
- Exotic or Non-indigenous Species
- Fishery Resources
- Indian Sacred Sites or Trust Resources
- Land Use
- Recreation
- Soil Effects
- Target or Non-target Species
- Vegetation
- Water Quality and Quantity (ground and surface water)
- Wild and Scenic Rivers
- Economic Effects
- Environmental Justice
- Farmland (prime or unique)
- Floodplain Effects
- International Effects
- Public Use
- Social Effects
- Species of Special Concern
- Threatened and Endangered Species
- Wastes (hazardous or solid)
- Wetlands
- Wildlife Resources

For each impact topic describe both qualitatively and quantitatively the environmental consequences of implementing each alternative, including the no action alternative. The impacts expected from not implementing any of the action alternatives, i.e., the no action alternative, form the environmental baseline to which the effects of the action alternatives will be compared. Describe the severity or magnitude of the expected effects, and their significance, for each impact topic.

The scope of analysis of impacts to be addressed in the EA should include only impacts caused by the proposed action and alternatives; not impacts resulting from prior perturbations or from other unrelated actions. Both significant beneficial and adverse impacts should be addressed in the analysis. Present the analysis in specific terms, such as an increase or decrease in the number of ducks produced, the expected change in the number of fishing visits, or area of wetland affected.

Do not “market” the proposed action. The discussion of environmental consequences should be a factual description of what the implications will be for each of the alternatives, compared to the no action alternative. Limit the level of detail and depth of impact analysis to that needed to determine whether there are significant environmental effects. The EA is to be an analytical document and not a decision document

The environmental consequences section should address the significance of direct, indirect, cumulative, and unavoidable adverse and beneficial environmental effects for each alternative, as appropriate for the situation. The analysis of impacts should specifically acknowledge threatened and endangered species and critical habitat, wetlands, floodplains, prime farmlands, and historical/cultural resources as pertinent. A cumulative impact analysis should be prepared, if it is deemed necessary through scoping, to make a determination of significance of the proposed

action. Analysis of cumulative effects should consider past, present, and reasonably foreseeable future actions, regardless of whether they are Federal or non-Federal.

This section should also discuss proposed mitigation for adverse environmental impacts, such as:

- Avoiding impact altogether
- Minimizing impacts by limiting the degree of the action
- Rectifying the impact by repairing, rehabilitating, or restoring the affected environment
- Timing the action in a way that may minimize damage
- Compensating for the impact by replacing or providing substitute resources or environments.

A brief, concise table should be inserted at the end of this section that summarizes the environmental effects of each impact topic by alternative. The table allows the decision-maker and the affected public to compare changes in the level of impacts between alternatives with the no action alternative. This table may be useful when making presentations to the decision-maker and the public.

Summary of Impacts by Alternatives

(expand table as necessary)

Impact Topics	Alternative A. No Action	Alternative B. Proposed Action	Alternative C. (Title)
Water Quality	(briefly summarize effects)	(briefly summarize effects)	(briefly summarize effects)
Threatened and Endangered Species	(briefly summarize effects)	(briefly summarize effects)	(briefly summarize effects)
Fish and Wildlife Resources	(briefly summarize effects)	(briefly summarize effects)	(briefly summarize effects)
Wetlands	(briefly summarize effects)	(briefly summarize effects)	(briefly summarize effects)
Cultural Resources	(briefly summarize effects)	(briefly summarize effects)	(briefly summarize effects)
(other impact topics)	(briefly summarize effects)	(briefly summarize effects)	(briefly summarize effects)

List of Preparers

Provide a list of the preparers who wrote, reviewed, and are responsible for the content of the EA.

Appendices

Include any backup or supportive information, material, or analysis necessary for the reader to understand the discussion/analysis in the EA. Substantive comments from public scoping should be included here.

Public Notice for EA

Availability of an EA for public comment is normally announced by the State agency. The EA is made available by appropriate public notice and/or circulated to the affected public. In most cases, particularly where an EA is expected to generate few if any comments, a single EA can be circulated to the affected public. In such cases, the EA would normally be referred to as an “EA” rather than a “Final EA.” In other situations, a draft and final EA may be prepared and circulated. In such cases, the final EA should address the comments of the public, and Federal, State and local agencies. The draft and final EA should be circulated to the public with the accompanying draft and final project documents, respectively, if they contain information useful for public review of the EA. All substantive public comments and the Service’s response to those comments should be attached to the final EA.

The EA may be advertised in a variety of media outlets. The announcement should be directed at the public affected by the proposed action. Public notices and news releases should briefly and clearly describe the proposed action, its location, the name and address of an official to whom comments should be directed, and give instructions for obtaining additional information. Public notices and news releases for actions affecting floodplains and wetlands must also contain a statement identifying the nature of the floodplain or wetland impact and brief descriptions of alternatives being considered. Appendix J is an example of a public notice suitable for a newspaper.

Finding of No Significant Impact (FONSI)

The FONSI (Appendix E) is a legal decision document prepared by Federal Aid that briefly summarizes the actions to be taken and reasons why the actions will not have a significant effect on the environment. It also documents why an EIS will not be prepared. If the EA is included with the FONSI, i.e., attached, the FONSI may incorporate the discussion in the EA by reference. The FONSI should summarize enforceable mitigation which was a factor in the determination. The FONSI should be signed in accordance with the regional office protocol.

Public Notice for FONSI

The FONSI must be made available to the affected public to inform them of the Service’s NEPA determination, and in certain cases, the FONSI and associated EA must be made available for public review before the action can be implemented. Local mailings, publication in newspapers, radio and television announcements may be used. The public notice (Appendix K) which is prepared by Federal Aid should summarize the information in the FONSI, provide details on where the FONSI can be obtained, and if appropriate, inform the public on how comments on the EA can be made.

The FONSI Must:

1. summarize the actions to be taken,
 2. explain why an EIS is not necessary,
 3. briefly describe the alternatives considered,
 4. disclose compliance with the Executive Orders on Floodplains and Wetlands, and
 5. declare a finding of no significant impact.
-

Other Considerations

Adoption

When another Federal agency is involved in the same Federal Aid project, the Service can adopt the other Federal agency's EA to reduce duplication of effort and streamline the NEPA compliance process (Appendix L).

There are two principal situations where adoption of another Federal agency's EA is appropriate. One is where the Service participated in the other agency's NEPA process as a designated cooperating agency. In this case the Service may adopt the other agency's EA and issue its own FONSI. A second situation is where the Service has not been a cooperator, perhaps because of differences in timing of Federal actions on the same Federal Aid project, e.g., a permit is obtained before financial assistance is requested. The Service must make the final EA available to the public and other agencies. The EA may be re-circulated concurrent with issuance of the FONSI. In both of the foregoing circumstances, the Service must independently review the EA to ensure that it meets its own and Departmental NEPA procedures. If the EA is deficient, it may be supplemented with the appropriate information or a new EA may be prepared.

Supplements

Supplements should be prepared for draft or final EAs if substantial changes are made to the proposed action or significant, new circumstances or information becomes available that would substantially affect the analysis of impacts and the decision. For example, a supplement may be prepared for a Federal Aid project renewal or amendment if there is a change in the scope, design or location of proposed work which would result in impacts different from those discussed in the original EA. In such cases, a supplement is prepared when the changes are judged to have a material affect on the decision-maker's choice.

While the basic format of an EA is recommended for supplements, the detail and coverage can be shortened by referencing appropriate information in the original EA. The supplement should focus on the new or modified aspects of the project. However, any referenced information must be made available to the public, if requested.

List of Major References and Training Opportunities

Useful References

Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act. 40 CFR Parts 1500-1508. Council on Environmental Quality. (http://ceq.eh.doe.gov/nepa/regs/ceq/toc_ceq.htm)

Forty Most Asked Questions Concerning CEQ's NEPA Regulations. Council on Environmental Quality. (<http://ceq.eh.doe.gov/nepa/regs/40/40P1.HTM>)

Considering Cumulative Effects Under the National Environmental Policy Act. Council on Environmental Quality. January, 1997. (<http://ceq.eh.doe.gov/nepa/ccenepa/ccenepa.htm>)

Environmental Justice—Guidance Under the National Environmental Policy Act. Council on Environmental Quality. December, 1997. (<http://ceq.eh.doe.gov/nepa/regs/ej/justice.pdf>)

Department of the Interior NEPA Procedures. 516 DM 1-7.

550FW 1. Fish and Wildlife Service NEPA Guidance. National Environmental Policy Act Policy and Responsibilities.

550FW 2. Fish and Wildlife Service NEPA Guidance. *National Environmental Policy Act Compliance Guidance.*

550FW 3. Fish and Wildlife Service NEPA Guidance. *Documenting and Implementing Decisions.* (<http://www.fws.gov/~directives/550fw3.html>)

Director's Order No: 127. Fish and Wildlife Service NEPA Guidance. *National Environmental Policy Act Compliance Checklist.* (<http://www.fws.gov/directives/do127.html>)

Training Opportunities

ECS3121. *Integrating NEPA Into Agency Activities.* Fish and Wildlife Service, National Conservation Training Center, Environmental Conservation Branch. (304) 876-7448.

Glossary

Affected Environment – A description of the existing environment to be affected by the proposed action (40 CFR 1502.15).

Alternative – A reasonable way to fix the identified problem or satisfy the stated need (40 CFR 1502.4).

Application for Federal Assistance (AFA) – The form (SF-424) used to transmit a grant proposal to carry out one or more projects.

Categorical Exclusion (CX) – A category of actions that do not individually or cumulatively have a significant effect on the human environment and have been found to have no such effect in procedures adopted by a Federal agency pursuant to NEPA (40 CFR 1508.4).

Council on Environmental Quality (CEQ) – Established under Title II of NEPA to develop Federal agency-wide policy and regulations for implementing the procedural provisions of NEPA, resolve interagency disagreements concerning proposed major Federal actions, and to ensure that Federal agency programs and procedures are in compliance with NEPA.

Cumulative Effect – The incremental environmental impact or effect of the proposed action, together with impacts of past, present, and reasonably foreseeable future actions, regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative effects can result from individually minor but collectively significant actions taking place over a period of time (40 CFR 1508.7).

Endangered Species Act of 1973 (ESA) – Requires that all agencies ensure that their actions do not jeopardize the continued existence of any endangered or threatened species, or result in the destruction or adverse modification of the habitat of the species.

Environmental Consequences – Environmental effects of project alternatives, including the proposed action, any adverse environmental effects which cannot be avoided, the relationship between short-term uses of the human environment, and any irreversible or irretrievable commitments of resources which would be involved if the proposal should be implemented (40 CFR 1502.16).

Environmental Action Statement (EAS) – A Service-required document prepared to improve the Service's administrative record for categorically excluded actions that may be controversial, emergency actions under CEQ's NEPA regulations (40 CFR 1506.11), decisions based on EAs to prepare an EIS, and any decision where improved documentation of the administrative record is desirable, and to facilitate internal program review and final approval when a FONSI is to be signed at the FWS-WO and FWS-RO level (550 FW 3.3C).

Environmental Impact Statement (EIS) – A detailed written statement required by section 102(2)(C) of NEPA, analyzing the environmental impacts of a proposed action, adverse effects of the project that cannot be avoided, alternative courses of action, short-term uses of the environment versus the maintenance and enhancement of long-term productivity, and any irreversible and irretrievable commitment of resources (40 CFR 1508.11).

Environmental Assessment (EA) – A concise public document, prepared in compliance with NEPA, that briefly discusses the purpose and need for an action, alternatives to such action, and provides sufficient evidence and analysis of impacts to determine whether to prepare an environmental impact statement or finding of no significant impact (40 CFR 1508.9).

Finding of No Significant Impact (FONSI) – A document prepared in compliance with NEPA, supported by an environmental assessment, that analyzes whether a Federal action will have no significant effect on the human environment and for which an environmental impact statement, therefore, will not be prepared (40 CFR 1508.13).

Grant – An award of financial assistance by the Federal Government to an eligible grantee to carry out one or more approved projects.

Grant Proposal – The documents submitted to the Regional Director of the U.S. Fish and Wildlife Service requesting approval of one or more projects.

Grant Agreement – The documents used to make an award of financial assistance, including the Grant Agreement Form (Form 3-1552), the approved project statement(s), and the supporting documentation.

Human Environment – Includes the natural and physical environment and the relationship of people with the environment (40 CFR 1508.14).

Impact (Effect) – A direct result of an action which occurs at the same time and place; or an indirect result of an action which occurs later in time or in a different place and is reasonably foreseeable; or the cumulative results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency or person undertakes such other actions (40 CFR 1508.8).

Lead Agency – The agency or agencies responsible for preparing the environmental impact statement (40 CFR 1508.16).

Major Federal Action – Actions with effects that may be major and which are potentially subject to Federal control and responsibility (40 CFR 1508.18).

Mitigation – Planning actions taken to avoid an impact altogether to minimize the degree or magnitude of the impact, reduce the impact over time, rectify the impact, or compensate for the impact (40 CFR 1508.20)

National Environmental Policy Act of 1969 (NEPA) – Requires all agencies, including the Service, to examine the environmental impacts of their actions, incorporate environmental information, and utilize public participation in the planning and implementation of all actions. Federal agencies must integrate NEPA with other planning requirements and prepare appropriate NEPA documents to facilitate better environmental decision-making. NEPA requires Federal agencies to review and comment on Federal agency environmental plans/documents when the agency has jurisdiction by law or special expertise with respect to any environmental impacts involved. (42 U.S.C. 4321-4327) (40 CFR 1500-1508).

Notice of Intent (NOI) – A notice that an environmental impact statement will be prepared and considered (40 CFR 1508.22).

No Action Alternative – The alternative where current conditions and trends are projected into the future without another proposed action (40 CFR 1502.14[d]).

Project – One or more related undertakings necessary to fulfill a need(s), as defined by the State, and consistent with the purposes of the appropriate Act. A project is the work to be done to accomplish a quantifiable or verifiable objective, as described in a single project statement. For projects to implement a strategic plan or a comprehensive management system, a project is the work unit or work proposal to accomplish a specific strategy in a strategic plan.

Project Statement – A description of the work to be done to accomplish a quantifiable or verifiable objective, consisting of a narrative of the need, objective, approach, expected results or benefits, location and estimated cost.

Proposed Action – A plan that contains sufficient details about the intended actions to be taken, or that will result, to allow alternatives to be developed and its environmental impacts analyzed (40 CFR 1508.23).

Record of Decision (ROD) – A concise public record of decision prepared by the Federal agency, pursuant to NEPA, that contains a statement of the decision, identification of all alternatives considered, identification of the environmentally preferable alternative, a statement as to whether all practical means to avoid or minimize environmental harm from the alternative selected have been adopted (and if not, why they were not), and a summary of monitoring and enforcement where applicable for any mitigation (40 CFR 1505.2).

Relationship of Short-Term Uses and Long-Term Productivity – The balance or trade-off between short-term uses and long-term productivity need to be defined in relation to the proposed activity in question. Each resource, of necessity, has to be provided with its own definitions of short- term and long-term (40 CFR 1502.16).

Scope – The range of actions, alternatives, and impacts to be considered in an environmental impact statement (40 CFR 1508.25).

Scoping – An early and open process for determining the extent and variety of issues to be addressed and for identifying the significant issues related to a proposed action (40 CFR 1501.7).

Significant – Use in NEPA requires consideration of both context and intensity (40 CFR 1508.27):

Context – significance of an action must be analyzed in its current and proposed short-and long-term effects on the whole of a given resource (e.g., affected region) Intensity – Refers to the severity of the effect

Tiering – The coverage of general matters in broader environmental impact statements with subsequent narrower statements of environmental analysis, incorporating by reference, the general discussions and concentrating on specific issues (40 CFR 1508.28).

Unavoidable Adverse Effects – Effects that can not be avoided due to constraints in alternatives. These effects do not have to be avoided by the planning agency, but they must be disclosed, discussed, and mitigated, if possible (40 CFR 1500.2[e]).

Appendices

Department of the Interior Categorical Exclusions

(Apply to all Departmental Bureaus, including the Fish and Wildlife Service)

(From 516 DM 2, Appendix 1, 9/26/84)

The following actions are Departmental categorical exclusions (CX). However, environmental documents will be prepared for individual actions within these CX if the exceptions (Appendix C) apply.

- 1.1 Personnel actions and investigations and personnel services contracts.
- 1.2 Internal organizational changes and facility and office reductions and closings.
- 1.3 Routine financial transactions, including such things as salaries and expenses, procurement contracts, guarantees, financial assistance, income transfers, audits, fees, bonds and royalties.
- 1.4 Law enforcement and legal transactions, including such things as arrests, investigations, patents, claims, legal opinions, and judicial activities including their initiation, processing, settlement, appeal or compliance.
- 1.5 Regulatory and enforcement actions, including inspections, assessments, administrative hearings and decisions; when the regulations themselves or the instruments of regulations (leases, permits, licenses, etc.) have previously been covered by the NEPA process or are exempt from it.
- 1.6 Non-destructive data collection, inventory (including field, aerial and satellite surveying and mapping), study, research and monitoring activities.
- 1.7 Routine and continuing government business, including such things as supervision, administration, operations, maintenance and replacement activities having limited context and intensity; e.g., limited size and magnitude or short-term effects.
- 1.8 Management, formulation, allocation, transfer and reprogramming of the Department's budget at all levels. (This does not exclude the preparation of environmental documents for proposals included in the budget when otherwise required.)
- 1.9 Legislative proposals of an administrative or technical nature, including such things as changes in authorizations for appropriations, and minor boundary changes and land transactions; or having primarily economic, social, individual or institutional effects; and comments and reports on referrals of legislative proposals.
- 1.10 Policies, directives, regulations and guidelines of an administrative, financial, legal, technical or procedural nature; or the environmental effects of which are too broad, speculative or conjectural to lend themselves to meaningful analysis and will be subject later to the NEPA process, either collectively or case-by-case.
- 1.11 Activities which are educational, informational, advisory or consultative to other agencies, public and private entities, visitors, individuals or the general public.

Effective September 26, 1984

Fish and Wildlife Service Categorical Exclusions

*(Incorporated in the Departmental Manual
(From 516 DM 6, Appendix 1, 1/16/97)*



1.4 Categorical Exclusions

Categorical exclusions are classes of actions which do not individually or cumulatively have a significant effect on the human environment. Categorical exclusions are not the equivalent of statutory exemptions. If exceptions to categorical exclusions apply, under 516 DM 2, Appendix 2 of the Departmental Manual, the departmental categorical exclusions cannot be used. In addition to the actions listed in the departmental categorical exclusions outlined in Appendix 1 of 516 DM 2, the following Service actions are designated categorical exclusions unless the action is an exception to the categorical exclusion.

A. General.

- (1) Changes or amendments to an approved action when such changes have no or minor potential environmental impact.
- (2) Personnel training, environmental interpretation, public safety efforts, and other educational activities, which do not involve new construction or major additions to existing facilities.
- (3) The issuance and modification of procedures, including manuals, orders, guidelines, and field instructions, when the impacts are limited to administrative effects.
- (4) The acquisition of real property obtained either through discretionary acts or when acquired by law, whether by way of condemnation, donation, escheat, right-of-entry, escrow, exchange, lapses, purchase, or transfer and that will be under the jurisdiction or control of the United States. Such acquisition of real property shall be in accordance with 602 DM 2 and the Service's procedures, when the acquisition is from a willing seller; continuance of or minor modification to the existing land use is planned, and the acquisition planning process has been performed in coordination with the affected public.

B. Resource Management. Prior to carrying out these actions, the Service should coordinate with affected Federal agencies and State, Tribal, and local governments.

- (1) Research, inventory, and information collection activities directly related to the conservation of fish and wildlife resources which involve negligible animal mortality or habitat destruction, no introduction of contaminants, or no introduction of organisms not indigenous to the affected ecosystem.
- (2) The operation, maintenance, and management of existing facilities and routine recurring management activities and improvements, including renovations and replacements which result in no or only minor changes in the use, and have no or negligible environmental effects on-site or in the vicinity of the site.
- (3) The construction of new, or the addition of, small structures or improvements, including structures and improvements for the restoration of wetland, riparian, instream, or native habitats, which result in no or only minor changes in the use of the affected local area. The following are examples of activities that may be included.
 - i. The installation of fences.
 - ii. The construction of small water control structures.
 - iii. The planting of seeds or seedlings and other minor revegetation actions.
 - iv. The construction of small berms or dikes.
 - v. The development of limited access for routine maintenance and management purposes.
- (4) The use of prescribed burning for habitat improvement purposes, when conducted in accordance with local and State ordinances and laws.
- (5) Fire management activities, including prevention and restoration measures, when conducted in accordance with departmental and Service procedures.
- (6) The reintroduction or supplementation (e.g., stocking) of native, formerly native, or established species into suitable habitat within their historic or established range, where no or negligible environmental disturbances are anticipated.

- (7) Minor changes in the amounts or types of public use on Service or State-managed lands, in accordance with existing regulations, management plans, and procedures.
- (8) Consultation and technical assistance activities directly related to the conservation of fish and wildlife resources.
- (9) Minor changes in existing master plans, comprehensive conservation plans, or operations, when no or minor effects are anticipated. Examples could include minor changes in the type and location of compatible public use activities and land management practices.
- (10) The issuance of new or revised site, unit, or activity-specific management plans for public use, land use, or other management activities when only minor changes are planned. Examples could include an amended public use plan or fire management plan.
- (11) Natural resource damage assessment restoration plans, prepared under sections 107, 111, and 122(j) of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA); section 311(f)(4) of the Clean Water Act; and the Oil Pollution Act; when only minor or negligible change in the use of the affected areas is planned.
- (4) The issuance or reissuance of permits for limited additional use of an existing right-of-way for underground or above ground power, telephone, or pipelines, where no new structures (i.e., facilities) or major improvement to those facilities are required; and for permitting a new right-of-way, where no or negligible environmental disturbances are anticipated.
- (5) The issuance or reissuance of special use permits for the administration of specialized uses, including agricultural uses, or other economic uses for management purposes, when such uses are compatible, contribute to the purposes of the refuge system unit, and result in no or negligible environmental effects.
- (6) The denial of special use permit applications, either initially or when permits are reviewed for renewal, when the proposed action is determined not compatible with the purposes of the refuge system unit.
- (7) Activities directly related to the enforcement of fish and wildlife laws, not included in 516 DM 2, Appendix 1.4. These activities include:
 - (a) Assessment of civil penalties.
 - (b) Forfeiture of property seized or subject to forfeiture.
 - (c) The issuance or reissuance of rules, procedures, standards, and permits for the designation of ports, inspection, clearance, marking, and license requirements pertaining to wildlife and wildlife products, and for the humane and healthful transportation of wildlife.
- (8) Actions where the Service has concurrence or coapproval with another agency and the action is a categorical exclusion for that agency. This would normally involve one Federal action or connected actions where the Service is a cooperating agency.

C. Permit and Regulatory Functions.

- (1) The issuance, denial, suspension, and revocation of permits for activities involving fish, wildlife, or plants regulated under 50 CFR Chapter 1, Subsection B, when such permits cause no or negligible environmental disturbance. These permits involve endangered and threatened species, species listed under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), marine mammals, exotic birds, migratory birds, eagles, and injurious wildlife.
- (2) The issuance of ESA section 10(a)(1)(B) “low-effect” incidental take permits that, individually or cumulatively, have a minor or negligible effect on the species covered in the habitat conservation plan.
- (3) The issuance of special regulations for public use of Service-managed land, which maintain essentially the permitted level of use and do not continue a level of use that has resulted in adverse environmental effects.

D. Recovery Plans.

Issuance of recovery plans under section 4(f) of the ESA.

E. Financial Assistance.

- (1) State, local, or private financial assistance (grants and/or cooperative agreements), including State planning grants and private land restorations, where the environmental effects are minor or negligible.
- (2) Grants for categorically excluded actions in paragraphs A, B, and C, above; and categorically excluded actions in Appendix 1 of 516 DM 2.

Effective January 16, 1997

Exceptions to Categorical Exclusions

*(in the Departmental Manual)
(From 516 DM 2, Appendix 2, 9/26/84)*

The following exceptions apply to individual actions within categorical exclusions (CX). Environmental documents must be prepared for actions which may:

- | | |
|--|--|
| <p>2.1 Have significant adverse effects on public health or safety.</p> <p>2.2 Have adverse effects on such unique geographic characteristics as historic or cultural resources, park, recreation or refuge lands, wilderness areas, wild or scenic rivers, sole or principal drinking water aquifers, prime farmlands, wetlands, floodplains, or ecologically significant or critical areas, including those listed on the Department's National Register of Natural Landmarks.</p> <p>2.3 Have highly controversial environmental effects.</p> <p>2.4 Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.</p> <p>2.5 Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.</p> | <p>2.6 Be directly related to other actions with individually insignificant but cumulatively significant environmental effects.</p> <p>2.7 Have adverse effects on properties listed or eligible for listing on the National Register of Historic Places.</p> <p>2.8 Have adverse effects on species listed or proposed to be listed on the List of Endangered or Threatened Species, or have adverse effects on designated Critical Habitat for these species.</p> <p>2.9 Require compliance with Executive Order 11988 (Floodplain Management), Executive Order 11990 (Protection of Wetlands), or the Fish and Wildlife Coordination Act.</p> <p>2.10 Threaten to violate a Federal, State, local or tribal law or requirement imposed for the protection of the environment.</p> |
|--|--|

Effective September 26, 1984

EXAMPLE: Environmental Action Statement (EAS)

United States Fish and Wildlife Service Environmental Action Statement

Within the spirit and intent of the Council on Environmental Quality's regulations for implementing the National Environmental Policy Act (NEPA), and other statutes, orders, and policies that protect fish and wildlife resources, I have established the following administrative record and determined that the action of (describe action):

Check One:

_____ is a categorical exclusion as provided by 516 DM 2, Appendix 1 and 516 DM 6, Appendix 1. No further NEPA documentation will therefore be made.

_____ is found not to have significant environmental effects as determined by the attached environmental assessment and finding of no significant impact

_____ is found to have significant effects and, therefore, further consideration of this action will require a notice of intent to be published in the Federal Register announcing the decision to prepare an EIS.

_____ is not approved because of unacceptable environmental damage, or violation of Fish and Wildlife Service mandates, policy, regulations, or procedures.

_____ is an emergency action within the context of 40 CFR 1506.11. Only those actions necessary to control the immediate impacts of the emergency will be taken. Other related actions remain subject to NEPA review.

Other supporting documents (list):

Signature Approval:

(1) Originator

Date

(2) WO/RO Environmental
Coordinator

Date

(3) AD/ARD

Date

(4) Director/Regional
Director

Date

Effective March 29, 1996

EXAMPLE: Finding of No Significant Impact (FONSI)

Finding of No Significant Impact Proposed Development of Public Access Square Pond, Acton, Maine

The Maine Department of Inland Fisheries and Wildlife proposes to develop a boat launching facility in Acton, Maine. The purpose of the proposed development is to provide safe fishing and recreational boating access to Square Pond. Planned activities include increasing the width of the gravel entrance road to two lanes, construction of a turning spur and gravel parking area for 30 rigs, and construction of a single lane concrete plank ramp with adjacent float system. The proposed project will be funded jointly by the Maine Department of Inland Fisheries and Wildlife and the U. S. Fish and Wildlife Service under the Federal Aid in Sport Fish Restoration Act.

Some 22 alternatives including acquisition and development at other locations were evaluated over a period of several years. These alternatives were dismissed from further consideration due to inadequate physical characteristics of the site, concerns for public safety, environmental or social conflicts or inability to acquire an adequate estate in land. Accordingly, only the proposed and no action alternatives were considered in detail.

Study of the ecologic and socio-economic effects of the proposal has shown them not to represent a negative impact on the quality of the human environment. A portion of these lands is within the floodplain and 0.14 acre of wetland will be affected by the launch ramp and driveway. A wetland function-value assessment determined that wetland functions and values would not be significantly altered by the proposed project. Accordingly, I find that all reasonable alternatives were considered in the evaluation of this project. I, therefore, find that this project complies with the meaning of Executive Order 11990 or 11988.

Based on a review and evaluation of the enclosed, environmental assessment and the supporting references cited below, I have determined that development of the site under Project F-31-D-18 entitled, "Aquatic Access Development and Maintenance - Square Pond" is not a major federal action which would significantly affect the quality of the human environment within the meaning of Section 102 (2) (c) of the National Environmental Policy Act of 1969.

The environmental assessment, prepared by the Maine Department of Inland Fisheries and Wildlife has been adopted by the U.S. Fish and Wildlife Service according to rules contained in 40 CFR 1506.3. Accordingly, preparation of an environmental impact statement on the proposed action is not required.

Regional Director

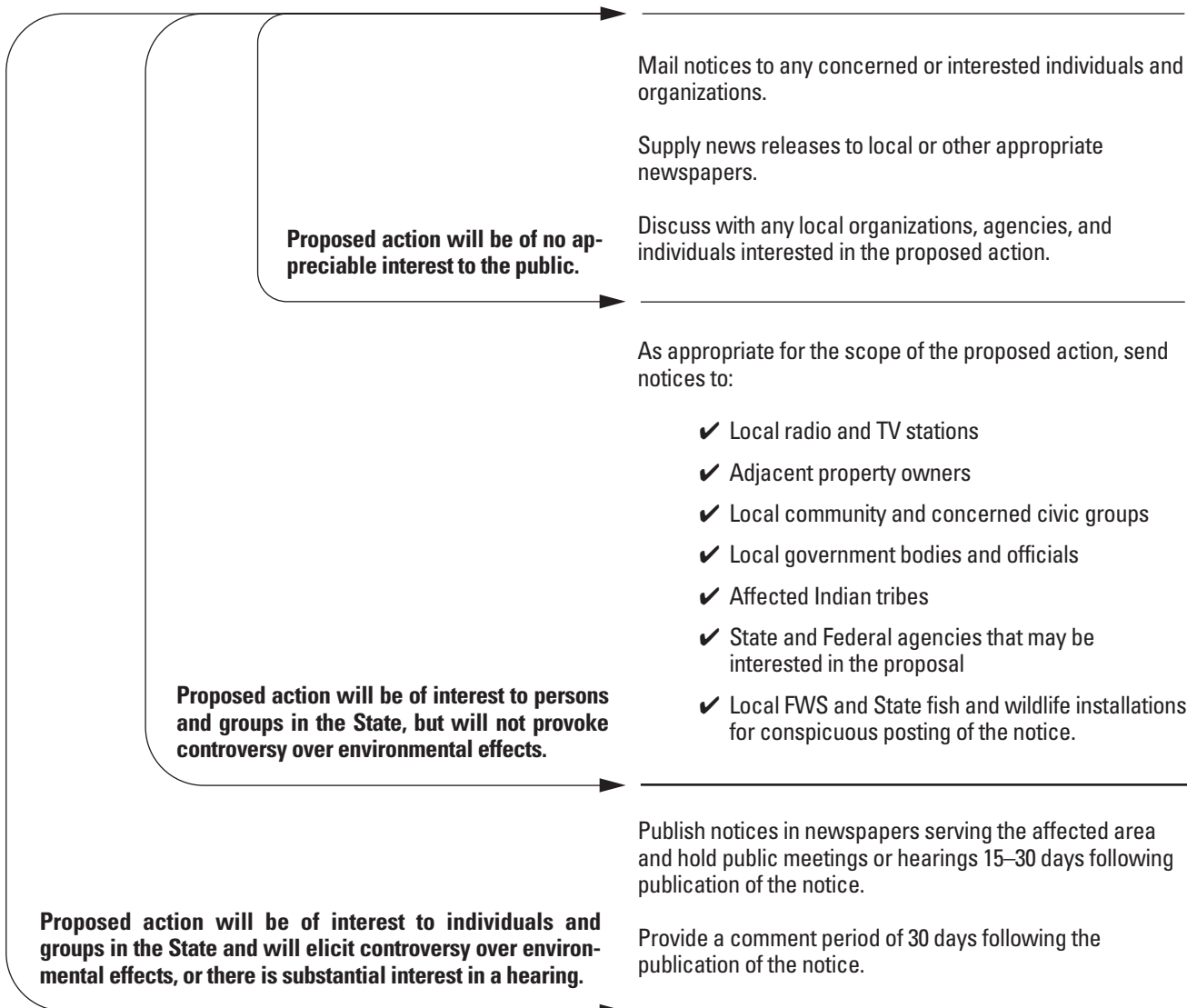
Date

References:

Application for Federal Assistance F-31-D Narrative Statement
Project Agreement F-31-D-18

Enclosure

Public Involvement Guidelines



NEPA COMPLIANCE CHECKLIST

State: _____ Federal Financial Assistance Grant/Agreement/Amendment Number: _____

Grant/Project Name: _____

This proposal ☐ is; ☐ is not completely covered by categorical exclusion No(s). _____, 516 DM 6 Appendix 1.

(check (✓) one) (Review proposed activities. An appropriate categorical exclusion must be identified before completing the remainder of the Checklist. If a categorical exclusion cannot be identified, or the proposal cannot meet the qualifying criteria in the categorical exclusion, an EA must be prepared.)

Exceptions:

Will This Proposal (check (✓) yes or no for each item below):

<u>Yes</u>	<u>No</u>	
<input type="checkbox"/>	<input type="checkbox"/>	1. Have significant adverse effects on public health or safety.
<input type="checkbox"/>	<input type="checkbox"/>	2. Have adverse effects on such unique geographic characteristics as historic or cultural resources, park, recreation or refuge lands, wilderness areas, wild or scenic rivers, sole or principal drinking water aquifers, prime farmlands, wetlands, floodplains, or ecologically significant or critical areas, including those listed on the Department's National Register of Natural Land marks.
<input type="checkbox"/>	<input type="checkbox"/>	3. Have highly controversial environmental effects.
<input type="checkbox"/>	<input type="checkbox"/>	4. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.
<input type="checkbox"/>	<input type="checkbox"/>	5. Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.
<input type="checkbox"/>	<input type="checkbox"/>	6. Be directly related to other actions with individually insignificant, but cumulatively significant environmental effects.
<input type="checkbox"/>	<input type="checkbox"/>	7. Have adverse effects on properties listed or eligible for listing on the National Register of Historic Places.
<input type="checkbox"/>	<input type="checkbox"/>	8. Have adverse effects on species listed or proposed to be listed on the List of Endangered or Threatened Species, or have adverse effects on designated Critical Habitat for these species.
<input type="checkbox"/>	<input type="checkbox"/>	9. Have material adverse effects on resources requiring compliance with Executive Order 11988 (Floodplain Management), Executive Order 11990 (Protection of Wetlands), or the Fish and Wildlife Coordination Act.
<input type="checkbox"/>	<input type="checkbox"/>	10. Threaten to violate a Federal, State, local or tribal law or requirement imposed for the protection of the environment.

(If any of the above exceptions receive a "Yes" check (✓), an EA must be prepared.)

Concurrences/Approvals:

Project Leader: _____ Date: _____

State Authority Concurrence: _____ Date: _____

(with financial assistance signature authority, if applicable)

Within the spirit and intent of the Council of Environmental Quality's regulations for implementing the National Environmental Policy Act (NEPA) and other statutes, orders, and policies that protect fish and wildlife resources, I have established the following administrative record and have determined that the grant/agreement/amendment:

- ☐ is a categorical exclusion as provided by 516 DM 6, Appendix 1. No further NEPA documentation will therefore be made.
- ☐ is not completely covered by the categorical exclusion as provided by 516 DM 6, Appendix 1. An EA must be prepared.
- ☐ includes other attached information supporting the Checklist.

Service signature approval:

RO or WO Environmental Coordinator: _____ Date: _____

Staff Specialist, Division of Federal Aid: _____ Date: _____

(or authorized Service representative with financial assistance signature authority)

EXAMPLE:

NEPA Documentation for PFO Grants

NEPA COMPLIANCE, OHIO F-69-P-6

July 1, 1999 – June 30, 2001

1. **Categorical Exclusions.** Categorical exclusions are classes of actions which do not individually or cumulatively have a significant impact on the human environment. Categorical exclusions are not the equivalent of statutory exemptions. Federal Register 62(11):2375–2382 provides criteria for determining projects fitting this category.

Section 1.4A(2) categorically excludes personnel training, environmental interpretation public safety efforts, and other educational activities which do not involve new construction or major additions to existing facilities. Projects in F-69-P-6 fitting this category include:

- Education and Planning Orientation
- Aquatic Education Center Operation
- Fisheries Inservice Training
- Public Communications–Fairport

Section 1.4A(3) categorically excludes the issuance and modifications of procedures including manuals, orders, guidelines and field instructions, when the impacts are limited to administrative effects. Projects in F-69-P-6 fitting this category include:

- Great Lakes Fishery Commission Administration
- Federal Aid Coordination
- Planning Administration

Section 1.4B(1) categorically excludes research, inventory, and information collection activities directly related to the conservation of fish and wildlife resources which involve negligible animal mortality or habitat destruction, no introduction or contaminants, or no introduction of organisms not indigenous to the affected ecosystem. Projects in F-69-P-6 fitting this category include:

- Largemouth Bass/Sunfish Management Investigations (Statewide)
- Annual BASS Tournament Results
- Review and Development of Sportfishing Publications
- Muskellunge Management Investigations
- Statewide Brown Trout Special Regulations Evaluation
- Smallmouth Bass Length Limit Evaluation

Section 1.4B(2) categorically excludes the operation, maintenance and management of existing facilities and routine recurring management activities and improvements, including renovations and replacements which result in no or only minor changes in the use, and have no or negligible effects on-site or in the vicinity of the site. Projects in F-69-P-6 fitting this category include:

- Fishing Area Maintenance in District One
- Aquatic Ecology Lab Basic Service and Equipment
- Basic Service Sandusky HQ Building

Section 1.4B(3) categorically excludes the construction of new, or the addition of, small structures or improvements, including structures and improvements for the restoration of wetland riparian, instream, or native habitats, which result in no or only minor changes in the use of the affected area. Projects in F-69-P-6 fitting this category include:

- Installation of Fish Concentration Devices
- Mad River Habitat Improvements Through Partnerships
- Aquatic Habitat Improvement or Manipulation

Section 1.4B(6) categorically excludes the reintroduction or supplementation of native, formerly native, or established species into suitable habitat within their historic or established range, where no or negligible environmental disturbances are anticipated. Projects in F-69-P-6 fitting this category include:

- Fish Production Requests and Prioritization
- Fish Production and Stocking–Hebron
- Fish Production and Stocking–Kincaid

Criteria Suggesting the Need to Prepare an EIS

For general guidance on what may constitute a “major Federal action” and “significant effect,” refer to 40 CFR 1508.18 and 1508.27, respectively. In addition, one or more of the following criteria, depending on the severity and duration of effects, may trigger the preparation of an EIS. Determinations of major Federal actions and significant effects on the human environment are subject to varying interpretation, and no hard-and-fast rules are available to label an action conclusively one way or the other. The need to prepare an EIS is a matter of professional judgment requiring consideration of all issues in question, particularly all information documented in the EA.

- Controversy over environmental effects (e.g., major scientific or technical disputes or inconsistencies over one or more environmental effects).
- Precedent-setting actions with wide-reaching or long-term implications (e.g., mineral extraction, new road construction, construction of an impoundment).
- Major alterations of natural environmental quality, that may exceed either local, State, or Federal environmental standards.
- Exposing existing or future generations to increased safety or health hazards.
- Conflicts with substantially proposed or adopted local, regional, State, interstate, or Federal land use plans or policies, that may result in adverse environmental effects.
- Adverse effects on designated or proposed natural or recreation areas, such as wilderness areas, parks, research natural areas, wild and scenic rivers, estuarine sanctuaries, national recreation areas, habitat conservation plan areas, fish hatcheries, wildlife refuges, lands acquired or managed with Dingell-Johnson/Pittman-Robertson funds, unique or major wetland areas, and lands within a 100-year floodplain.
- Removal from production of prime and unique agricultural lands, as designated by local, regional, State, or Federal authorities; in accordance with the Department’s Environmental Statement Memorandum No. ESM 94-7.
- Adverse effects on municipal, industrial, or agricultural water supply or quality; or major consumptive use or other long-term commitment of water.
- Condemnation of property rights or fee title to land; or large-scale relocation of people, homes, commercial, industrial, or major public facilities.
- Major proposals establishing new refuge system units, fish hatcheries, or major additions to existing installations, which involve substantive conflicts over existing State and local land use, significant controversy over the environmental effects of the proposal, or the remediation of major on-site sources of contamination.
- Master or comprehensive conservation plans for major new installations, or for established installations, where major new developments or substantial changes in management practices are proposed.

EXAMPLE: Public Notice for Draft EA

PUBLIC NOTICE

An environmental assessment for construction of a boat launching site on the Potomac River at the town of Paw Paw, Hampshire County, is being prepared by the West Virginia Division of Natural Resources in accordance with Presidential Executive Order 11988 (Flood Plain Management), Executive Order 11990 (Protection of Wetlands), and the National Environmental Policy Act. Several design alternatives are being considered to mitigate wetland fills.

Persons wishing to comment on this project should write to the West Virginia Division of Natural Resources, Wildlife Resources Section, 1900 Kanawha Boulevard, East, Building 3, Room 808, Charleston, West Virginia, 25305

All comments must be received by June 25, 1991.

EXAMPLE: Public Notice for FONSI

PUBLIC NOTICE OF FEDERAL AID IN SPORT FISH RESTORATION PROJECT

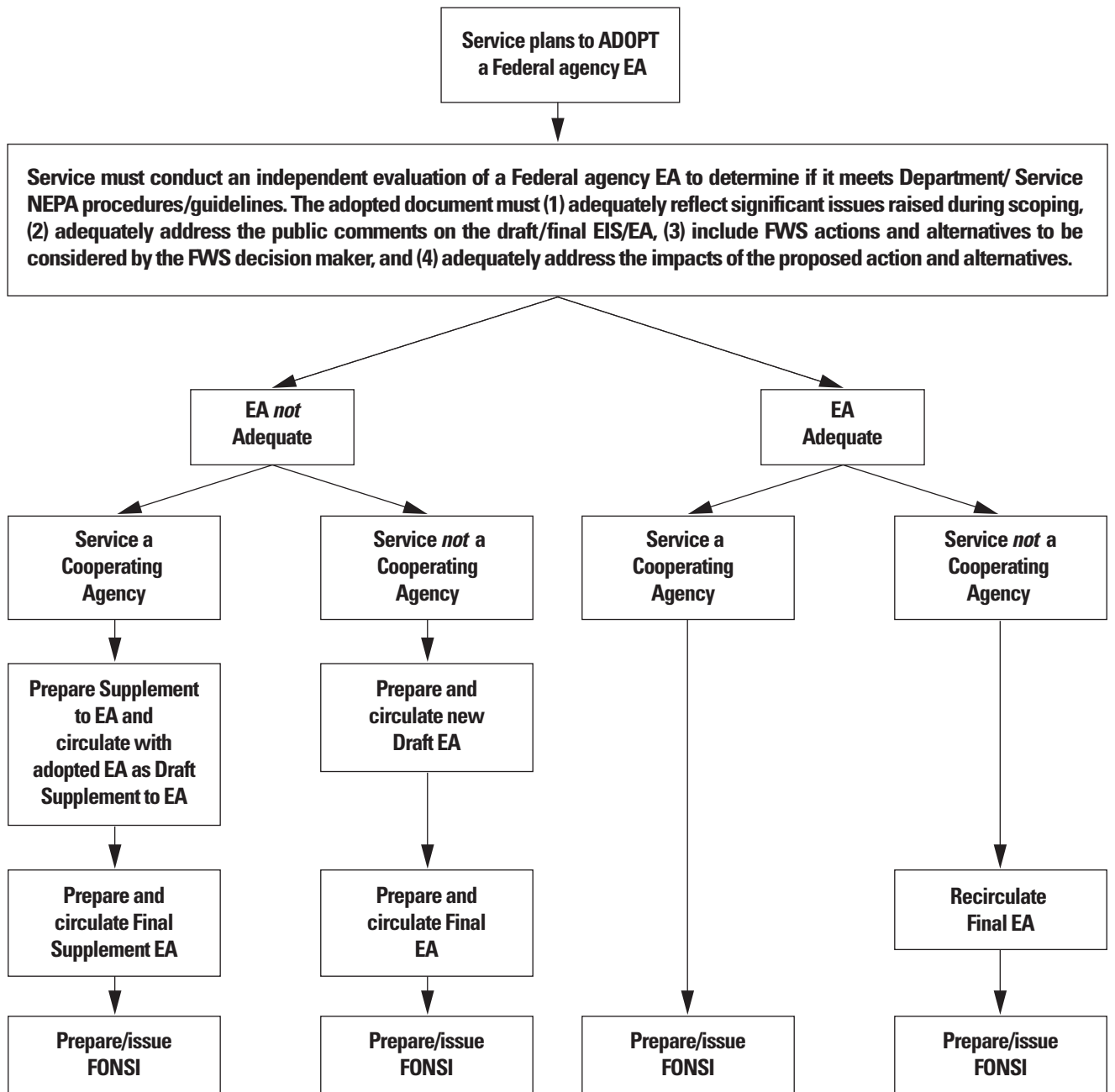
Notice is hereby given that an Environmental Assessment has been prepared for Maine Department of Inland Fisheries and Wildlife Federal Aid Project F-31-D-18 entitled, "Aquatic Access Development and Maintenance - Square Pond". This is a Federal Aid in Sport Fish Restoration project to be funded jointly by the Maine Department of Inland Fisheries and Wildlife and the U.S. Fish and Wildlife Service.

The purpose of the project is to provide fishing and recreational boating access to Square Pond in Acton, Maine. Planned activities include increasing the width of the gravel entrance road to two lanes, construction of a turning spur and gravel parking area for 30 rigs, and construction of a single lane concrete plank ramp with adjacent float system.

This notice is also intended to meet the requirements of the U.S. Fish and Wildlife Service Final Procedures for Implementation of Executive Order 11988, Floodplain Management, and Executive Order 11990, Protection of Wetlands, by giving notice that a Finding of No Significant Impact has been signed for the above project. The Finding of No Significant Impact and Environmental Assessment may be inspected at the U.S. Fish and Wildlife Service, Regional Office, 300 Westgate Center Drive, Hadley, Massachusetts 01035-9589, and the Maine Department of Inland Fisheries and Wildlife, 284 State Street, Station 41, Augusta, Maine 04333. Copies of the Assessment may also be obtained at the Regional Office, upon payment of a reasonable reproduction cost pursuant to 43 CFR, Part 2, Appendix A.

Comments on the Environmental Assessment may be submitted to the Regional Director, U.S. Fish and Wildlife Service, no later than 30 days from the publication of this notice.

Adoption Process



**U.S. Department of the Interior
U.S. Fish & Wildlife Service
Route 1, Box 166
Sheperdstown, WV 25433**

<http://www.fws.gov>

October 2000

